

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: Sahar Zamir,)	CHAPTER 7
)	
Debtor.)	CASE NO. 19-63015-jwc
)	
)	
Sahar Zamir,)	
)	
Movant,)	CONTESTED MATTER
)	
v.)	
)	
David Wasserman,)	
)	
)	
Respondent.)	

RESPONSE TO MOTION TO AVOID LIEN AND REQUEST FOR ATTORNEYS FEES

COMES NOW, David Wasserman, and files this, his Response to Debtor's Motion to Avoid Lien, and in support thereof, states as follows:

1. On October 2, 2019, Debtor filed a Motion to Avoid (the "First Motion") the non-possessory, non-purchase money security interest in certain household goods, wearing apparel, appliances, books, and musical instruments of the Debtor.
2. This Court held a hearing on the First Motion on November 7, 2019. Debtor withdrew her Motion on November 19, 2019 and, on the same day, refiled a substantially similar pleading requesting not only the same relief, but a procedurally and substantively inappropriate request to determine certain parts of Mr. Wasserman's non-dischargeable claim under 523(a)(15) as dischargeable.
3. Mr. Wasserman has a security interest in one engagement ring (the "Engagement Ring") worth approximately \$29,000.00 and one wedding band (the "Wedding Ring,"

collectively, with the Engagement Ring, the “Rings”) worth approximately \$3,000.00. Mr. Wasserman is also in possession of these items of jewelry and has a lien that specifically attaches to both items.

4. The items are worth more than \$300.00, and Mr. Wasserman has a possessory security interest in the Collateral; therefore, Ms. Samir cannot avoid the lien. Moreover, she did not exempt or schedule any interest in the Rings in her schedules; therefore, they are non-exempt property in which a lien cannot be avoided.
5. Debtor cannot request a portion of her 523(a)(15) and 523(a)(6) debt to be held non-dischargeable through a Motion to Avoid Lien or through any motion, for that matter. Debtor must file an adversary proceeding under F.R.B.P. 7001(6) to obtain a determination that a debt is dischargeable. Regardless, section 523(a)(15) provides that debts
 - a. (15) to a spouse, former spouse, or child of the debtor and not of the kind described in paragraph (5) that is incurred by the debtor **in the course of a divorce or separation or in connection with a separation agreement**, divorce decree or other order of a court of record, or a determination made in accordance with State or territorial law by a governmental unit (emphasis added).
6. Mr. Wasserman’s lien and underlying debt arose during the course of the parties’ divorce case; therefore, they are non-dischargeable pursuant to 11 U.S.C. § 523(a)(15).

WHEREFORE, Mr. Wasserman prays that this Court deny the Motion and enter an Order providing that Mr. Wasserman’s lien as to the Rings is NOT avoided and to set this matter for a hearing and for such other and further relief as this Court deems appropriate. Furthermore, Mr.

Wasserman requests that this court grant him the costs of defending this frivolous action under 11 U.S.C. § 105.

/s/ Will B. Geer
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CERTIFICATE OF SERVICE

I hereby certify that I filed that I filed the Response to Motion to Avoid Lien [Docket No. 25] by filing the same with the Court through its CM/ECF system, which will provide electronic notice to the following parties:

Robert A. Chambers
Law Office of Robert A. Chambers
Suite 103
6488 Spring Street
Douglasville, GA 30134
(770) 947-3540
Fax : (404) 581-5484
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I also certify that the following parties were served by depositing the Response to Motion to Avoid Lien by depositing the same First-Class U.S. Mail with adequate postage to ensure proper delivery

**Sahar A Zamir
3035 Stone Gate Drive
Atlanta, GA 30324**

Kathleen Steil
Kathleen Steil, Trustee
Ogier, Rothschild & Rosenfeld, PC
P. O. Box 1547
Decatur, GA 30031

Dated: December 9, 2019.

/s/ Will B. Geer
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